

# Withrow & Terranova

Professional Limited Liability Company

Attorneys At Law

Registered Patent Attorneys

*A High Technology Patent Practice*

## FACSIMILE TRANSMITTAL SHEET

TO:	Examiner Alexander Boayke	FROM:	Taylor M. Davenport
COMPANY:	PTO - Art Unit 2666	DATE:	2/12/2003
FAX NUMBER:	703-872-9314	TOTAL NO. OF PAGES INCLUDING COVER:	3
PHONE NUMBER:	703-305-3900	SENDER'S REFERENCE NUMBER:	7000-155
RE:	Response to Office Action	YOUR REFERENCE NUMBER:	09/102,016

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ ORIGINAL TO FOLLOW

### NOTES/COMMENTS:

Attached please find the following documents related to the above-referenced application:

- 1) Response to the Office Action mailed 14 January 2003 (2 pages)

NOTE: The information contained in this transmission is privileged and confidential and intended ONLY for the individual or entity named above. If you should receive this transmission in error, please notify our office and return to the below address via the U.S. Postal Service.

201 SHANNON OAKS CIRCLE, SUITE 200

CARY, NC 27511

PH: (919) 654-4520

Received from <919 654 4521> at 2/12/03 4:11:03 PM [Eastern Standard Time]: (919) 654-4521

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Samuel H. Christie, IV

Serial No. 09/102,016

Filed: 06/22/1998

For: TREATMENTS IN A DISTRIBUTED COMMUNICATIONS SYSTEM

Examiner: Boakye, A.

Art Unit: 2666

Commissioner for Patents

Washington, D.C. 20231

Official

RECEIVED  
2/12/03

Sir:

RESPONSE TO THE OFFICE ACTION MAILED 14 JANUARY 2003

In response to the office action mailed 14 January 2003, Applicant offers the following remarks. If any fees are required in association with this response, the Director is hereby authorized to charge them to Deposit Account 50-1732, and consider this a petition therefor.

REMARKS

Applicant has carefully studied the Office Action of 14 January 2003 and offers the following remarks.

Claims 61-64, 66, 70, 71, 73, 76-79, 81, 85, 86, 88, 91-94, 96, 100-103, 106-111, 115, 116, and 118 were rejected under 35 U.S.C. § 102(e) as being anticipated by Rochkind et al. Applicant notes that Rochkind et al. was filed 29 December 1997 and issued 17 December 2002. To the best of Applicant's knowledge, the earliest priority date for the Rochkind et al. patent is 29 December 1997. Applicant filed a declaration under 37 C.F.R. § 1.131 on 21 March 2002 showing conception at least as early as 12 August 1997 and diligence to filing. This 1.131 declaration effectively removes Rochkind et al. from the field of available prior art. Without Rochkind et al., the § 102(e) rejection of claims 61-64, 66, 70, 71, 73, 76-79, 81, 85, 86, 88, 91-94, 96, 100-103, 106-111, 115, 116, and 118 is unsupported and the claims stand in condition for allowance.

Claims 65, 67-69, 72, 74, 75, 80, 82-84, 87, 89, 90, 95, 97-99, 102, 104, 105, 110, 113, 114, 117, 119, and 120 were rejected under 35 U.S.C. § 103 as being unpatentable over Rochkind et al. in view of Creswell et al. As noted above, Rochkind et al. is not available as prior art, leaving only Creswell et al. to support this rejection. For the Patent Office to make a *prima facie* case of obviousness, the Patent Office must show where each and every element is located within the references. The Patent Office primarily relies on Rochkind et al. in